

REMARKS

Receipt of the Office Action of January 20, 2011 is gratefully acknowledged.

Claims 8 - 17 and 19 - 23 were examined in this RCE application. Claims 19 - 22 have been indicated as being allowed and claims 8 - 17 and 23 have been rejected under 35 USC 103(a) over Jackson et al.

To place this application in condition for allowance, claims 8 - 17 and 23 have been cancelled and claims 19 - 22 retained. Accordingly, this application is in condition for allowance.

While this application is now in condition for allowance, it is worth noting that the finality of the Office Action of January 20, 2011 is improper.

RCE applications are filed pursuant to 37 CFR 1.114. The requirement for filing an RCE is a request, a fee and a submission. The submission can be "an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability." The examiner refers us to MPEP §706.07(b) as a basis of making the Office Action of January 20, 2011 final. The examiner has correctly cited MPEP §706.07(b) but improperly applied it since additional searching would be necessary regarding the pending and not allowed claims in view of the addition of a new claim, even though the new claim is in dependent form.

It would be appreciated if the examiner can withdraw the finality of the Office Action of January 20, 2011 and indicate the withdrawal in the Notice of Allowance that is to issue.

Respectfully submitted,
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